

**A RESOLUTION**

**BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE**

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF THOMAS GEORGE ASSOCIATES, LTD AS SUBROGEE OF CARLYLE M. JOHNSON IN THE AMOUNT OF \$2,896.87 AGAINST THE CITY OF ATLANTA ARISING FROM A SEWER BACK UP.**

**01-~~R~~ -1561**

**WHEREAS, THOMAS GEORGE ASSOCIATES as subrogee of CARLYLE M. JOHNSON** has filed a claim against the City of Atlanta seeking damages arising out of several sanitary sewer back ups to its insured's property located at 2417 Sagamore Drive, Atlanta, Georgia; and

**WHEREAS,** property owned by **CARLYLE M. JOHNSON** has been damaged due to sewer back ups resulting from the continuous malfunctioning of the City's Bolton Road Treatment facility; and

**WHEREAS,** the City of Atlanta was on notice of said nuisance and made several unsuccessful attempts to abate said nuisance; and

**WHEREAS,** inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

**WHEREAS,** the claimant has asserted damages in the amount of \$2,896.87 and has agreed to accept this sum in full and complete satisfaction and settlement of its claim against the City of Atlanta; and

**WHEREAS,** the City Attorney has recommended that the claim of **THOMAS GEORGE ASSOCIATES** as subrogee of **CARLYLE M. JOHNSON**, be settled for the sum of \$2,896.87.

**THEREFORE, BE IT RESOLVED** that the Council of the City of Atlanta, Georgia that \$2,896.87 be paid by the City of Atlanta to **THOMAS GEORGE ASSOCIATES** as subrogee of **CARLYLE M. JOHNSON**, in satisfaction of any and all claims it may have stemming from damages sustained to its insured's property on or about March 1, March 3, March 6, March 7 and March 16, 2000, at 2417 Sagamore Drive and that the City Attorney prepare appropriate releases.

**BE IT FURTHER RESOLVED** that the Chief Financial Officer is hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

*D-1*

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0512

Date: September 14, 2001

Claimant /Victim CARLYLE M. JOHNSON  
BY: (Atty) (Ins. Co.) THOMAS GEORGE ASSOCIATES, LTD  
Address: P. O. Box 30, East Northport, NY 11731-0030  
Subrogation: X Claim for Property damage \$ 2,896.87 Bodily Injury \$ \_\_\_\_\_  
Date of Notice: 8/22/00 Method: Written, Proper X Improper \_\_\_\_\_  
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 3/1, 3/3, 3/6, 3/7, ans 3/16/00 Place: 2417 Sagamore Drive  
Department PUBLIC WORKS Division Sewer Operations  
Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

NATURE OF CLAIM: Claimant alleges that he sustained damages to his residence from a series of sanitary sewer back ups. An investigation determined that the pumping system at the Bolton Road Treatment facility was malfunctioning and the City was on notice of said problem. After several attempts, the problem was finally corrected.

INVESTIGATION:

Statements: City employee \_\_\_\_\_ Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral \_\_\_\_\_  
Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police \_\_\_\_\_ Dept Report X Other X  
Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_  
Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

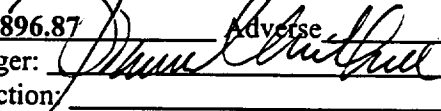
BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial \_\_\_\_\_  
Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other \_\_\_\_\_ Damages reasonable \_\_\_\_\_  
City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement \_\_\_\_\_  
Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_  
Claimant Negligent \_\_\_\_\_ City Negligent X Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,

  
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 2,896.87 Adverse \_\_\_\_\_ Account charged: 1A01 \_\_\_\_\_ 2J01 X 2H01 \_\_\_\_\_  
Claims Manager:  Concur/date 09-14-01  
Committee Action \_\_\_\_\_ Council Action \_\_\_\_\_

THOMAS GEORGE ASSOCIATES, LTD  
TGA  
Insurance Recovery Division  
Post Office Box 30  
East Northport NY 11731 0030  
(631) 261-8800

BURNS  
08/22/00  
[Signature]

August 17, 2000

ENTERED - 8-28-00 - SB  
00L0512 - GWEN BURNS

CITY OF ATLANTA LAW DEPT  
55 TRINITY ST  
ATLANTA, GA 30335-0000

Attention: MUNICIPAL CLARK

OUR CLIENT: LIBERTY MUTUAL GROUP "X"  
OUR INSURED: JOHNSON, CARLYLE M  
CLIENTS CLAIM#: X586-036108  
OUR CASE #: 135792-31  
AMT OF DAMAGES: 2,896.87  
YOUR INSURED: WASTE WATER SERV CITY OF AT GA  
YOUR CLAIM#:   
YOUR POLICY#:   
DATE OF LOSS: 03/03/00

Please be advised that we are the recovery agents for the above referenced client and are aiding them in their subrogation rights as result of the above captioned loss.

The information obtained through our investigation places the liability on your insured for the damages incurred by our clients insured.

Please notify this writer as to the claim number and individual handling this claim.

When processing this claim, make your draft payable to our client, care of Thomas George Assoc. at the above address and reference our case number on all correspondence. If any additional information is needed, please feel free to contact me at the above number.

Very truly yours,  
THOMAS GEORGE ASSOCIATES, LTD.

[Signature: Kathy Artis]  
Kathy Artis